Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matters of	)	
	)	
Federal-State Joint Board on Universal	)	CC Docket No. 96-45
Service Seeks Comment On Long Term,	)	
Comprehensive High-Cost Universal Service	)	WC Docket No. 05-337
Reform	)	
	)	

COMMENTS
of the
SMALL COMPANY COMMITTEE OF THE LOUISIANA TELECOMMUNICATIONS ASSOCIATION

Louisiana Rural Telephone Companies

Cameron Telephone Company, LLC
Campti-Pleasant Hill Telephone Co., Inc.
CenturyTel of Chatham, LLC
CenturyTel of Central Louisiana, LLC
CenturyTel of East Louisiana, LLC
CenturyTel of Evangeline, LLC
CenturyTel of North Louisiana, LLC
CenturyTel of Northwest Louisiana, Inc.
CenturyTel of Ringgold, LLC
CenturyTel of Southeast Louisiana, Inc.
CenturyTel of Southwest Louisiana, LLC
Delcambre Telephone Co., Inc.
East Ascension Telephone Co., LLC
Elizabeth Telephone Company, LLC
Kaplan Telephone Co., Inc.
Lafourche Telephone Co., LLC
Northeast Louisiana Telephone Co., Inc.
Reserve Telephone Co., Inc.
Star Telephone Co., Inc.

Larry G. Henning
President
Louisiana Telecommunications Association
7266 Tom Drive, Suite 205
Baton Rouge, Louisiana 70806
225-927-1377

May 31, 2007

TABLE OF CONTENTS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matters of	)	
	)	
Federal-State Joint Board on Universal Service Seeks Comment On Long Term, Comprehensive High-Cost Universal Service Reform	)))))	CC Docket No. 96-45 WC Docket No. 05-337

COMMENTS
of the
SMALL COMPANY COMMITTEE OF THE LOUISIANA TELECOMMUNICATIONS ASSOCIATION
Louisiana Rural Telephone Companies

The Small Company Committee of the Louisiana Telecommunications Association (the "SCC") hereby submits these comments in response to the Federal-State Joint Board on Universal Service ("Joint Board") Public Notice, released May 1, 2007.[1] The SCC of the Louisiana Telecommunications Association is comprised of the Rural Telephone Companies (47 U.S.C. §153(37)) providing service in the rural areas of Louisiana.[2]

The *Public Notice* seeks comment on various proposals to reform the federal high-cost universal service support mechanisms. The Joint Board states that it is committed to making recommendations to the Federal Communications Commission

[1] *Federal-State Joint Board on Universal Service Seeks Comment on Long Term, Comprehensive High-Cost Universal Service Reform,* CC Docket No. 96-45, WC Docket No. 05-337, Public Notice, FCC 07J-2 (released May 1, 2007) ("*Public Notice*").

[2] The SCC is comprised of the following Louisiana rural telephone companies: Cameron Telephone Company, LLC, Campti-Pleasant Hill Telephone Co., Inc., CenturyTel of Chatham, LLC, CenturyTel of Central Louisiana, LLC, CenturyTel of East Louisiana, LLC, CenturyTel of Evangeline, LLC, CenturyTel of North Louisiana, LLC, CenturyTel of Northwest Louisiana, Inc., CenturyTel of Ringgold, LLC, CenturyTel of Southeast Louisiana, Inc., CenturyTel of Southwest Louisiana, LLC, Delcambre Telephone Co., Inc., East Ascension Telephone Co., LLC, Elizabeth Telephone Company, LLC, Kaplan Telephone Co., Inc., Lafourche Telephone Co., LLC, Northeast Louisiana Telephone Co., Inc., Reserve Telephone Co., Inc., and Star Telephone Co., Inc.

("Commission") regarding long term, comprehensive high-cost universal service reform within six months.[3] To assist the Joint Board in accomplishing this goal, the Joint Board seeks comment on several specific issues as set forth below, and on certain proposals that have been placed in the record since the close of the last comment cycle. The SCC respectfully submits these Comments in response to the *Public Notice*.

I. CAPPING COMPETITIVE ETC SUPPORT

As part of its comprehensive effort to reform the high-cost universal service support mechanisms, the Joint Board recommends that the Commission take *immediate* action to rein in the explosive growth in high-cost universal service support disbursements by imposing an interim, emergency cap on the amount of high-cost support that competitive eligible telecommunications carriers ("ETCs") may receive.[4] The SCC supports the adoption of the interim cap on the amount of high-cost support available to competitive ETCs as set forth in the Joint Board's *Recommended Decision*.

Any long term, comprehensive reform of the federal high-cost universal service support mechanisms must include a cap on the amount of funding available to competitive ETCs. The *Recommended Decision* clearly acknowledges that virtually all of the growth in the universal service fund is occurring in the competitive ETC portion of the fund. The Joint Board's *Recommended Decision* represents a necessary and responsible step as the Commission develops a long term solution to stabilize the federal universal service fund. Adoption of the *Recommended Decision* will bring run-away, excessive funding for competitive ETCs under control, which is indispensable to modernizing the universal service program.

---

[3] *Public Notice* at para. 1.
[4] *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, FCC 07J-1 (released May 1, 2007) ("*Recommended Decision*").

The interim capping mechanism proposed by the Joint Board is nothing new to the universal service program or telecommunications carriers. Federal high-cost loop support designated to incumbent local exchange carriers is not only based on their actual costs, but is and has been subject to a cap for years.[5] The Schools and Libraries and Rural Health Care programs of the USF are also capped. Competitive ETCs, on the other hand, are not currently required and have been unwilling to produce their own costs in order to receive universal service support.[6] Instead, they receive funding based on the cost structure of the incumbent carriers who have already made network investments in rural markets. This means that while the financial support of incumbent telephone companies is limited, the support that the competitive ETCs receive is effectively unlimited. The consequence: in the six years from 2001 through 2006, competitive ETC support grew from $15 million to almost $1 billion – an annual growth rate of over 100 percent.[7] Based on current estimates, competitive ETC support in 2007 will reach at least $1.28 billion if the Commission takes no action to curtail this growth.[8] High-cost support to competitive ETCs is estimated to grow to almost $2 billion in 2008 and $2.5 billion in 2009 even without additional competitive ETC designations in 2008 and 2009.[9]

Therefore, any comprehensive reform of the high-cost universal service support mechanisms must include adoption of the *Recommended Decision* of the Joint Board to immediately cap the amount of federal high-cost support available to competitive ETCs. Accordingly, adoption of the Joint Board's *Recommended Decision* is critical to stabilizing the universal service fund, and to ensuring its long term sustainability.

[5] *See Recommended Decision* at para. 5, citing 47 C.F.R. Sects. 36.603 and 54.801(a).
[6] *Recommended Decision* at para. 6.
[7] *Recommended Decision* at para. 4.
[8] Id.
[9] Id.

II. LONG TERM REFORM

Through the *Public Notice*, the Joint Board seeks comment on certain specific issues and proposals including: 1) the use of reverse auctions to determine high-cost universal service support; 2) disaggregation of support; and, 3) the methodology for calculating support for competitive ETCs.[10]

A. Reverse Auctions Should Not Be Used To Determine USF Support.

For the reasons set forth below, the SCC recommends against the use of reverse auctions or a competitive bidding process to determine high-cost universal service support.

As set forth by the SCC in its initial *Comments* (October 10, 2006) and *Reply Comments* (November 8, 2006) filed herein, the statutory goals for universal service are to ensure that all Americans have access to high-quality telecommunications services at affordable rates, and that the rates and services in rural areas are reasonably comparable to those in urban areas.[11] The Communications Act of 1934, as amended (the "Act"), clearly states that universal service support should be specific, predictable and sufficient to achieve these goals.[12] Sections 214(e) and 254 of the Act require that, in rural areas, the Commission give priority to preserving and promoting universal service.

The rural telephone company members of the SCC provide a wide array of high quality communications services, on a universal basis, to rural consumers in Louisiana. The provision of a robust infrastructure and high-quality and affordable services in these

---

[10] *Public Notice* at paragraph 3.
[11] 47 U.S.C. §§ 254(b)(1), (b)(3).
[12] *Id.* § 254(b)(5).

areas would never have been possible were it not for the Nation's long-established policy of universal service and the respective state and federal universal service funds.

Therefore, if the rural telephone companies lose the ability to continue providing services at affordable rates, then some rural areas in Louisiana may be deprived of basic service. Such an outcome would be at odds with the universal service principles Congress codified in the Act.

In the short term, utilizing a competitive bidding process to allocate universal service support may reduce the size of the rural high-cost fund. However, over time, it can be expected to widen the digital divide, and reduce the availability of high-quality, advanced services in the rural areas of the Nation by destabilizing rural telephone company support over the long term, and jeopardizing their ability to maintain and upgrade their networks and infrastructures. Thus, a competitive bidding process will not achieve the goals of universal service.

Additionally, a reverse auction process applied to all carriers in a specific rural market will not provide adequate support to ensure that Americans in rural areas will have access to quality, affordable and evolving technologies that are widely available to consumers in metropolitan markets. The ubiquitous reach of the incumbent network in rural markets mandates that the rural incumbent, as the only entity with carrier of last resort obligations, continue to receive support.

In order to address the unnecessary growth in the rural high-cost program, the Commission should adopt the Joint Board's *Recommended Decision* that support for competitive ETCs in rural service areas be capped, verifiable and cost-supported.[13] As opposed to constructing a competitive bidding mechanism, by simply implementing the

[13] *See Recommended Decision* at paragraphs 6, 7 and 10.

proposed cap on competitive ETC support, and eliminating the identical support rule for competitive ETCs, the Commission could place the rural high-cost program back on track to sustainability, while preserving the part of the program that is successful and accountable to the public.

In many rural areas, the public interest is best served by a single provider receiving government support, yet multiple competitive ETCs are being funded without any serious attempt to determine how they use the money to advance universal service. In high-cost rural areas, where services are expensive for even one provider, competitive ETCs should not receive unlimited funding on the basis of the ILECs' costs.[14]

As described below, limiting support to competitive ETCs on the basis of their own costs is the best way to reduce overall growth in the high-cost fund. Responsible administration of competitive ETC support, with meaningful cost and other accountability requirements, is the most effective and least disruptive way to reduce the burdens of high-cost funding on consumers.

The existing support mechanism for rural ILECs, based on embedded costs, has been achieving the Act's universal service objectives. As the Joint Board again considers competitive bidding as a potential funding mechanism for universal service, it is required to consider the impact on the preservation and advancement of universal service.

Competitive bidding would discourage necessary network investments. Telecommunications networks require large investments in long-lived infrastructure. Without a reasonable expectation that these costs can be recovered, investments will not be made. If the remainder of an auction term is not long enough to recover the cost of a needed network upgrade, it is likely that a carrier will be unwilling to make the

[14] *See Recommended Decision* at para. 7.

investment, fearing that it may not win the next auction and will be unable to recover the costs over the anticipated time period.

Additionally, if the Joint Board's goal is ensuring that service is cost-effective, a competitive bidding mechanism applied to all carriers misses the mark. Rural customers today rely on practically ubiquitous ILEC networks, even where they obtain services from carriers other than the ILEC. Rural ILEC networks provide the necessary transport and termination in rural markets, without which little broadband or wireless service would be available.

As suggested by the Commission, quality of service issues may arise if support levels for all carriers in a market are set by competitive bidding.[15] Under the current scheme, the overall amount of support available to ILECs is based on the actual cost of providing services.[16] Under an auction system, universal service support would be based on a number determined by competitive conditions, not actual costs. Thus, any increase in costs due to enhanced service quality, investment in infrastructure, network upgrades, or line increases would go unsupported.

Further, if competitive bidding diminishes the ILECs' support, ILECs will decrease investment in the network, or cease investment altogether, because the levels of support will not correspond to the costs of maintaining an entire network. This will result in a scenario where it is increasingly unlikely that current levels of service can be sustained in rural markets. Overall, a reverse auction decreases incentives for incumbents and competitors alike to invest in rural networks, thereby undermining the intent of the universal service fund and causing service problems for rural consumers.

---

[15] *See Universal Service First Report and Order* ¶ 324 FN 819.

[16] *See* 47 C.F.R. 36.631.

In sum, the use of competitive bidding in rural service areas would jeopardize future network investment and place at significant risk the continued availability of "reasonably comparable" services and rates to rural consumers.

B. Carriers Should Not Be Required to Disaggregate USF Support.

The Joint Board seeks comment on whether the Commission should require all carriers to disaggregate support below the study area, or wire center, level.[17] Carriers should not be required to disaggregate federal universal service support below the study area level.

In the Rural *Task Force Order*, the Commission adopted three paths for the geographic disaggregation and targeting of rural high-cost support at or below the study area level.[18] Under Path One, a carrier could choose not to disaggregate. Under Path Two, a carrier has the option of disaggregating in accordance with a plan approved by the state commission. Under Path Three, a carrier has the option of self-certifying to the state commission a disaggregation plan of up to two cost zones per wire center that are reasonably related to the cost of providing service within each zone. (*See 47 C.F.R. Sect. 54.315(b)-(d)*).

In designing the current universal service funding mechanisms, the Commission relied on states to ensure that current retail rates were affordable and based the rural high-cost funding mechanism on embedded costs. As a practical matter, most states employ geographic retail rate averaging and a host of different rate structures and mandatory pricing plans and rate caps to ensure that retail rates remain affordable and reasonably comparable across the state. The Louisiana rural telephone companies have not

[17] *Public Notice* at para. 6.
[18] *See Rural Task Force Order,* 16 FCC Rcd at 11302-09, paras. 144 – 64.

disaggregated their federal universal service support so as to maintain affordable and reasonably comparable averaged retail rates across their Louisiana service areas pursuant to state commission orders and regulations. The ability to apply federal universal service support on an aggregated basis throughout their service areas is critical to the maintenance of Louisiana Commission ordered state-wide averaged retail rates. Therefore, carriers should not be required to disaggregate federal universal service support.

In addition, the Commission has previously pointed to dissagregation as a sufficient deterrent to "cream skimming" by competitive ETCs. To conclude that there is little risk of "cream skimming" because rural telephone companies have been permitted to disaggregate their support below the study area level reflects a myopic view of rural telephony. The disaggregation options available to rural telephone companies do not eliminate the "cream skimming" advantages enjoyed by competitive ETCs. Unlike competitive ETCs, the SCC member rural telephone companies are substantially more regulated by the state commission, with their access charges and local rates averaged throughout their service territory. They are thus not as free as competitive ETCs to adjust prices and terms of service to reflect cost differences. In contrast, competitive ETCs are unencumbered in their ability to reflect cost differences through pricing and service terms, or by simply not providing service to a very high cost location in their service coverage areas. Accordingly, carriers should not be required to disaggregate federal universal service support.

C. The Identical Support Rule Should Be Eliminated.

The Joint Board seeks comment on whether the Commission should replace the current identical support rule with a requirement that competitive ETCs demonstrate their own costs in order to receive support.[19] The SCC supports the Joint Board's *Recommended Decision* to abandon the identical support rule as part of any comprehensive reform of the high-cost universal service support mechanisms.[20]

As made clear by the Joint Board "the identical support rule has become dated and may no longer be the most appropriate approach to calculating support for competitive ETCs."[21] The Joint Board further explained that:

> The identical support rule seems to be one of the primary causes of the explosive growth in the fund. Most of the reform options that we seek comment on in today's companion *Public Notice* would replace this approach with approaches that better reflect the economic realities of different technologies. Thus, we recommend that the Commission expressly place competitive ETCs on notice that identical support without cost justification may be an outdated approach to USF funding.[22]

Therefore, comprehensive reform of the high-cost fund designed to contain the unnecessary growth in the program must include abandoning the identical support rule.

The identical support rule for receipt of universal service dollars is an inefficient means of awarding support to competitive ETCs that do not have similar regulatory obligations or costs as the incumbent rural telephone companies.[23] The Commission and states have been auditing ILECs' costs and monitoring their quality of service for

---

[19] *Public Notice* at para. 7.
[20] *Recommended Decision* at para. 6.
[21] Id. at paras. 7 and 12.
[22] Id. at para. 12.
[23] Id. at para. 6.

decades, and require ILECs to follow detailed cost-accounting rules.[24] In contrast, competitive ETCs are not subject to cost accounting or reporting rules.

Universal service support is currently allocated to ETCs on a per-line basis. Under Commission regulations, a rural telephone company is eligible to receive high-cost support if its embedded loop costs exceed 115% of the national average loop costs, with the actual level of support based on the number of loops served and the degree to which the telephone company's' actual costs exceed the average cost per loop.[25] An additional ETC, however, is eligible to receive universal service funding without demonstrating that its costs meet this threshold. Instead, the additional ETC receives support based on the average per-line costs of the incumbent carrier.[26] Thus, as the incumbent makes efforts to advance universal service, it increases its own, as well as the additional ETC's funding eligibility. Each time the incumbent's per-loop cost rises, such as if it invests in its infrastructure, the additional ETC's per-line support also rises commensurate with the incumbent's per-line support, even if the additional ETC's own costs remain unchanged. As noted by the Joint Board, this "spiraling" of the demands on the federal universal service fund threatens the very fund on which so many rural consumers rely.[27]

In addition, considering the differences that exist between ILECs and competitive ETCs, the identical support rule fails to adhere to the FCC's universal service principle of competitive neutrality.[28] As with ILECs, competitive ETCs should receive support only

---

[24] *See generally* 47 C.F.R. §§ 36.611 – 36-631 (rules applicable to ILEC justification of high-cost support); *see* http://www.universalservice.org/hc/components/loop.asp (USAC description of the process for reporting and obtaining high-cost support, including the considerable delay between expenditures and receipt of support).
[25] 47 C.F.R. 36.631.
[26] 47 C.F.R. 54.307; *Recommended Decision* at para. 4.
[27] *Recommended Decision* at para. 4.
[28] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8801, ¶47 (1997); *Recommended Decision* at para. 6.

after expenditures are made, rather than funding promises for future investment that may or may not occur.[29] Where a carrier cannot show that it has invested in services to the areas for which support is intended, support should be withdrawn.

As pointed out by the Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO"), reforms to contain the excessive growth in the high cost program should be tailored to directly target the root cause of the problem while not placing at risk that part of the program that is efficiently and effectively achieving the universal service goals of the Act. (OPASTCO Comments at pp. 6 – 7). Instead of recommending reverse auctions, the Joint Board should target the source of the problem by focusing on its recommendation that the identical support rule for competitive ETCs in rural service areas be eliminated, and that support for these carriers be based on their own costs. (OPASTCO Comments at p. 7).

As further explained by OPASTCO:

> It is evident that the cause of unnecessary growth in the rural High-Cost program is competitive ETCs which, in turn, is caused by the illogical identical support rule. The identical support rule enables competitive ETCs to receive the same per-line support as the rural ILEC, based on the ILEC's costs, for every customer that the competitive ETC serves in its designated territory. This creates arbitrage opportunities for competitive carriers to seek ETC status in order to receive windfalls of support that exceed the 'sufficient' levels called for in section 254(b)(5) of the 1996 Act. Consequently, the long-term sustainability of the Fund is needlessly jeopardized and ratepayers nationwide are unnecessarily burdened. Also, considering the stark differences that exist between rural ILECs and competitive ETCs, the identical support rule fails to adhere to the FCC's universal service principle of competitive neutrality.[30]

The identical support rule is not competitively neutral. When industries use different technologies, deploy different architectures, have different regulatory regimes

[29] *See generally* 47 C.F.R. §§ 36.611 – 36-631 (rules applicable to ILEC justification of high-cost support).
[30] OPASTCO Comments at p. 10.

and expectations, and continue to serve both differing and to some extent overlapping functions, the resulting cost structures necessarily will be very different.[31] As a result, paying identical high-cost fund dollars results in profitability disparities that can be profoundly anti-competitive. (Balhoff & Rowe Comments at p. 24). Providing identical support to carriers with asymmetric obligations, especially Carrier of Last Resort obligations, cannot be represented as being competitively neutral. (Balhoff & Rowe Comments at pp. 24 – 25). The identical support rule is fundamentally anticompetitive, is wasteful and apparently is not grounded in the investment goals that are core to legacy universal service approaches. (Balhoff & Rowe Comments at p. 25).

See also Comments of Frontier Communications on Use of Reverse Auctions at page 7, which explain that there is no good public policy reason to continue to give competitive ETCs support based on the costs of the ILECs.

See also Initial Comments of the National Telecommunications Cooperative at pp. 20 – 22, which explain that the identical support rule has created a dangerous incentive for wireless carriers to seek competitive ETC status in rural high cost areas where they already provide wireless service to ILEC customers. Even if a wireless carrier knows that its costs are low enough to compete effectively without the additional support, it is compelled by the identical support rule to seek competitive ETC designation so as to maximize profits and avoid lost opportunities to obtain support. (NTCA Initial Comments at p. 22).

See also Comments of the United States Telecom Association at pp. 15 – 17, where the USTA explains that the identical support rule is putting undue pressure on the

[31] *See* Comments of Balhoff & Rowe, LLC on behalf of the Independent Telephone and Telecommunications Alliance, at p. 24.

high cost fund and thereby threatening the long-term sustainability of universal service. (USTA Comments at p. 17).

Therefore, to address the unnecessary growth of the high-cost fund, the Commission must adopt the *Recommended Decision* of the Joint Board, including the elimination of the identical support rule in rural service areas.

III. CONCLUSION

The Joint Board should not recommend the use of reverse auctions in rural service areas. This scheme would impede the statutory goals and requirements of advancement and preservation of universal service. Such a mechanism would needlessly place at risk the continued availability of affordable, high-quality communications services, including advanced services, for many rural consumers. Instead, the Commission should adopt the proposals contained in the Joint Board's *Recommended Decision*, including eliminating the identical support rule for competitive ETC receipt of high-cost funding in rural service areas.

Respectfully submitted,

THE SMALL COMPANY COMMITTEE OF THE LOUISIANA TELECOMMUNICATIONS ASSOCIATION

By: /s/ Paul F. Guarisco

Paul F. Guarisco
Phelps Dunbar LLP
445 North Blvd., Suite 701
P.O. Box 4412
Baton Rouge, Louisiana 70806
Telephone: 225-376-0241
Facsimile: 225-376-0240

Larry G. Henning
President
Louisiana Telecommunications Association
7266 Tom Drive, Suite 205
Baton Rouge, Louisiana 70821
225-927-1377

Janet S. Boles
The Boles Law Firm
7914 Wrenwood Blvd., Suite A
Baton Rouge, Louisiana 70809
Telephone: 225-924-2686
Facsimile: 225-926-5425

Counsel for the Small Company Committee of the Louisiana Telecommunications Association

May 31, 2007

CERTIFICATE OF SERVICE

I, Paul F. Guarisco, hereby certify that a copy of the comments of the Small Company Committee of the Louisiana Telecommunications Association was sent electronically on this, the 31st day of May, 2007, to those listed in the FCC Public Notice 07J-2.

By: /s/ Paul F. Guarisco
Paul F. Guarisco